THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.20216 OF 2007

Dated: 24.09.2007

Between:

1. The Divisional Forest Officer,
   Anantapur and another

..Petitioners

And

K. Hussain Peera

..Respondent.

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THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.20216 OF 2007

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ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioners challenging the order of the tribunal dated 25.6.2007 in O.A.No.2294 of 2007.

The respondent herein is the applicant before the tribunal. For the sake of convenience, the parties will hereinafter be referred to as they are arrayed in the O.A.

The respondent-applicant filed the above O.A., seeking to declare the action of the respondents in not sending 'No Due and Last Pay Certificate' of the applicant to the 2nd respondent for releasing the pension and other retrial benefits even after passing of the pension verification orders by the 2nd respondent on 18.1.2006 in Ref.No.P17/IV/H-177/Sp.485/2005-11/085 and insisting for payment of nearly an amount of Rs.72,000/- as illegal and arbitrary and consequently to declare that the applicant is entitled for all the retiral benefits without there being any recovery with interest at the rate of 18% p.a.

The tribunal having observed that under Rule 9 of the A.P. Revised Pension Rules, 1980, only the Government is vested with power to withhold the pension or part of the pension, but not any other officer much less the Divisional Forest Officer or Vigilance Department and admittedly, there are no orders from the Government directing to withhold the gratuity or pension and therefore, absolutely, there is no justification on the part of the 1st respondent in not issuing the Last

Pay Certificate and No Due Certificate and apart from that, according to the respondents, the amount due from the applicant is only one lakh and odd and there can be orders to deduct the same and pay the rest, allowed the O.A directing the respondents to pay the retiral benefits to the applicant within four weeks from the date of receipt of the copy of the order with interest at the rate of 8% p.a., from the date of retirement both on gratuity and pension and interest has to be recovered from the persons, who are responsible for the delay and the respondents-authorities can deduct one lakh and odd from the gratuity, which is alleged to be due to the department subject to final decision on that aspect by the Government. Having aggrieved by the same, the respondents-authorities filed the present writ petition.

Heard the learned Government Pleader for Services-I and perused the material available on record.

As can be seen from the counter filed by the 1st petitioner-respondent, it is obvious that the proceedings against the applicant as to the excess charge of the expenditure are pending and therefore, last pay certificate was not sent. According to the respondents-authorities, the recovery is only for an amount of one lakh. In that view of the matter and in the absence of any order of the Government under rule 9 of the Revised Pension Rules, non-issuance of No due certificate and Last Pay Certificate and withholding of the entire retiral benefits is unjustifiable as rightly observed by the Tribunal. Therefore, We do not find any reason to interfere with the findings of the tribunal and the writ petition is devoid of merits and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

Justice G.Chandraiah

Date: 24.09.2007
Gurc/nn

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.20216 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 24.09.2007